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FM AMEMBASSY ANKARA

TO RUEHC/SECSTATE WASHDC PRIORITY 0898

INFO RUEHDL/EUROPEAN POLITICAL COLLECTIVE

RHMFISI/HQ USEUCOM VAIHINGEN GE

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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 000278

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E.O. 12958: DECL: 02/09/2017

TAGS: PGOV PHUM PREL OSCE TU

SUBJECT: TURKEY'S FREEDOM OF EXPRESSION DEBATE HEATS UP

Classified By: Political Counselor Janice G. Weiner, reasons 1.4(b)(d)

1.(C) Summary: The discussion on how to treat infamous Article 301 of the Turkish Penal Code, which criminalizes "insulting Turkishness," has heated up following the assassination of journalist Hrant Dink, who had been convicted under the law. Seeking to quell rising criticism from the EU and segments of Turkish civil society, several business and labor organizations recently proposed changes to eliminate the law's ambiguity. Theis defenders haqe begun to speak out more vocally. Given the divide on this in Turkish society, PM Erdogan and his ruling Justice and Development Party (AKP) will find it difficult to screw up the political courage to take action prior to presidential or parliamentary elections. End summary.

NGOs Propose Amendments To Eliminate Law's Ambiguity

2.(U) On February 8, the Turkish Union of Chambers and Commodities Exchanges (TOBB), the Turkish Industrialists and Businessmen's Association (TUSIAD), the Economic Development Foundation (IKV), the Turkish Union of Agricultural Chambers (TZOB), the Television Broadcasters association (TVYD) and several labor unions announced a joint proposal to amend controversial Turkish Penal Code (TNP) Article 301, which criminalizes insulting "Turkishness" and has been oft-criticized by the EU and others for limiting freedom of expression. Recently assassinated Turkish-Armenian journalist Hrant Dink, Nobel Laureate Orhan Pamuk, writer Elif Shafak, as well as scores of journalists and writers, have been charged or tried under the article. Prime Minister Erdogan has repeatedly said that his administration would consider changes to the article proposed by civil society.

3.(U) The proposed changes would clarify the word "Turkishness" as "having a citizenship tie to the Republic of Turkey," and replace "insult Turkishness" with "publicly ridicule and mock Turkishness." At the press conference announcing the proposal, IKV president Davut Okutcu said that the changes would help to eliminate the law's ambiguity and bring the legislation into line with the European Human Rights Convention. A change of mentality among judges and prosecutors, however, would still be critical to improving freedom of expression, stated Okutcu.

Others Say "Cosmetic" Changes Won't Resolve Problems

4.(C) Human Rights Association President Yusuf Alatas told us that the proposed changes were "merely cosmetic." Alatas scoffed at the idea that merely replacing "belittle" with "ridiculing and insulting" would resolve the problem. He people from 103

organizations, including the HRA, the Human Rights Foundation, Mazlum-Der, the Helsinki Citizens Assembly, Amnesty International, and the Turkish Medical Doctors' Association.

5.(C) Hasan Anamur, the head of the Union of Translators, told us that the proposal was made by groups close to the GOT in order to ease EU pressure on the government and calm the public following the Dink murder. Meanwhile, those who had actually been prosecuted under Article 301, including translators, have been excluded from efforts to change the law.

6.(C) Human Rights Foundation President Yavuz Onen stressed

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to us that real change requires that the debate be enlarged to focus on more than Article 301. There are at least 14 more article restricting freedom of thought and speech, according to Onen. He recently sent a letter to PM Erdogan setting forth these articles, which include: Article 132, violating the confidentiality of communication; Article 134, confidentiality of private life; Article 315, praising crime

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and criminals; Article 216, provoking people to hatred and enmity; and Article 288, attempting to affect fair hearing.

Public Support for Article 301 Continues

7.(U) Despite renewed civil society efforts to amend or abolish Article 301, significant public support for the article remains. A recent Selcuk University poll of 7325 persons in 43 provinces revealed that 55.3 percent responded that Article 301 should not be repealed, while 39.4 percent favored repealing the law. Supporters of the law have started speaking out.

8.(U) On February 8, the Turkish Solidarity Council, a group made up of 96 foundations, associations, and NGOs, defended the law in a press conference. Spokesperson Mustafa Erkal stated, "There is a shameless campaign against the article." He called on the GOT to clearly define its stance on 301 instead of "hiding behind certain civil society organizations and their ambiguous statements." The president of the Ankara Chamber of Commerce at the press conference called on the GOT to take responsibility for changing the law. Kemalist Thought Association (ADD) deputy Chairman Ali Ercan on February 8 released a statement expressing his association's view on why the article should remain in place: The Turkish War of Independence, which led to the establishment of the republic, was a war fought powers who were the aren't consensus of some NGOs regarding amending Article 301, civil society remains split on whether to keep the law, amend it, or abolish it altogether. It has become a symbol of growing Turkish nationalism and a lightning rod within Turkish society, as well as in international circles. Given this fracture, significant public support for maintaining the law, and the general reluctance of PM Erdogan and his AK Party to get out in front on any tough issue, the GOT is likely to try to continue to dodge this prior to presidential and parliamentary elections. End comment.

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